



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 19 2015

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

**IN THE MATTER OF:** KT Performance, LLC

**ATTENTION:**

KT Performance, LLC  
1502 Max Hooks Road, Suite D  
Groveland, FL 34736

Diamond T Enterprises, LLC  
12055 Bay Lake Road  
Groveland, FL 34736

Registered Agent for KT Performance,  
LLC: Kenneth W Thompson  
12055 Bay Lake Road  
Groveland, FL 34736

**Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)**

The United States Environmental Protection Agency ("EPA" or "We") hereby requires KT Performance, LLC, and any of their parent organizations, affiliates, predecessors, successors, and assignees ("you"),<sup>1</sup> to submit certain information as part of an EPA investigation to determine your compliance with Sections 203(a) and 213(d) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable Motor Vehicle Regulations at 40 C.F.R. Parts 85 and 86. Examples of vehicles or engines regulated under these Parts include, but are not limited to, automobiles, recreational vehicles, and pickup trucks. Appendix A provides definitions. Appendix B provides instructions for your responses to this Request for Information. Appendix C specifies the information that you must submit.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Director of the Air Enforcement Division, Office of Enforcement and Compliance Assurance.

You must submit this information to the EPA representative listed below within thirty (30) calendar

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<sup>1</sup> See definition 5 in Appendix A.

days from the date of this Request for Information. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to this Request for Information by this date, you must contact Tony Miller of my staff at (303) 312-7161 or miller.anthony@epa.gov within 15 days of the date of this Request for Information and, with an appropriate justification, request an extension of time to answer some or all of the requests below. If timely submitted, the EPA will review your request and may extend the time in which your response must be provided.

Failure to provide the required information may result in a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. It is important that your responses be clear, accurate, organized, and complete. We will regard any submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes.

Finally, you must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this Request for Information in an administrative, civil, or criminal action.


You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information (“CBI”) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix D of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

Tony Miller, Chemical Engineer, P.E.  
U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
1595 Wynkoop Street, Mail Code: 8MSU  
Denver, CO 80202

Any questions concerning this request for information should be directed to Tony Miller of my staff at (303) 312-7161 or [miller.anthony@epa.gov](mailto:miller.anthony@epa.gov).



 Phillip A. Brooks  
Director  
Air Enforcement Division

11/18/15

Date



## **Appendix A**

### **Definitions**

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle and Non-Road Regulations found at 40 C.F.R. Parts 85, 86, 89, 90, 1051, and 1068.
2. The term “information” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and work sheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
3. The term “entity” means any natural person, corporation, partnership, Limited Liability Company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
4. The term “person” includes an individual, corporation, partnership, or association (see Section 302(e) of the CAA, 42 U.S.C. § 7602(e)).

5. The term “you”, and “your” includes, but is not limited to, KT Performance, LLC; Diamond T Enterprises, LLC; and any of their affiliates, predecessors, successors, and assignees.
6. The term “Affiliated Organization” means any organization or entity associated with you as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization, or entity acting in lieu of you or the entities named in Definitions 5 .
7. The term “applications” means all vehicle or engine configurations.
8. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance as defined in 40 C.F.R. § 85.2102.
9. The term “element of design” means any control system (*e.g.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2.
10. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Other ECMs may be incorporated separately with multiple units used to control various engine, vehicle, or equipment functions. Examples of electronic control modules include, but are not limited to, Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module. Any or all of these modules may be combined into a single unit.
11. The term “selective catalytic reduction” or “SCR” includes systems which inject a reductant, such as diesel exhaust fluid (“DEF”), into the exhaust stream where it reacts with a catalyst to convert Nitrogen Oxides (NO<sub>x</sub>) emissions to Nitrogen Gas (N<sub>2</sub>) and Water.
12. The term “onboard diagnostics” or “OBD” includes systems which monitor components that can affect the emission performance of the vehicle to ensure that the vehicle remains

as clean as possible over its entire life, and assists repair technicians in diagnosing and fixing problems with the computerized engine controls. If a problem is detected, the OBD system illuminates a warning lamp on the vehicle instrument panel to alert the driver.

13. The term “exhaust gas recirculation” or “EGR” includes systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of NO<sub>x</sub>. The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “catalysts” includes systems which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. Catalysts are used in many processes in the chemical and petroleum industries. Emission control catalysts are used to promote reactions that change exhaust pollutants from internal combustion engines into harmless substances. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless steel housing.



**Appendix B**  
**Instructions for Responses**

1. Provide a complete, detailed response to each of the requests in Appendix C, below. Provide any narrative responses or lists in English, in both written document form and in electronic form using an electronic spreadsheet (*e.g.*, Word, Excel), provided you have access to spreadsheet software. Please contact Tony Miller if providing the responses in Excel format will be an issue.
2. This Request for Information is a continuing request. You must promptly supplement your response to any request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after initially responding to this Request for Information.
3. For each answer, please provide the number of the request to which it responds and identify each person who provided information that was used to prepare that answer. For each document produced, please provide the number of the request to which it responds. Where information is responsive to more than one numbered request, provide that information only once, but indicate the numbers of all requests to which the information is responsive.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information is not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
6. All submitted documents should be copies and not original documents.
7. Where you have previously submitted information to the EPA that is also the subject of this Request for Information, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (*e.g.*, electronically, fax, mail), and the individual at EPA to whom it was provided.
8. Please provide two copies of your response to this Request for Information in electronic form. Please provide the Statement(s) of Certification (Appendix E) in hard copy form

with two electronic copies of your response. All responsive documents and materials (*e.g.*, copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, submitted on a disk (CD or DVD media), and number stamped in sequential order (*e.g.*, BATES stamped). Where spreadsheets are responsive to a request, produce them in unlocked electronic spreadsheet format, such as .xls or .csv (locked spreadsheets, .pdf files and images are unacceptable). Please contact Tony Miller if providing the information electronically will be an issue.



## **Appendix C**

### **Request for Information**

You must submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542.

#### **Company Background**

1. Provide a detailed, written description of the current business structure of KT Performance, LLC and its affiliates, and any changes in the business structure that have occurred since January 1, 2014, to the present. The description must include a timeline that explains: 1) all changes in the business structure of KT Performance, LLC and 2) all actions by KT Performance, LLC to acquire any interest or control in any other entity.
2. Provide a copy of your corporate documents, including but not limited to certificates of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable during the time period from January 1, 2013, to the present.
3. Provide a list of KT Performance, LLC's Affiliated Organizations during the time period from January 1, 2013, to the present.

#### **Manufacture, Importation, and Purchase of Components**

4. Provide an electronic, unlocked spreadsheet identifying each component, element of design, tuner, software coding, tunes, device, or part (hereinafter identified as "component") manufactured, purchased, or imported by KT Performance, LLC during the period January 1, 2013, through the present, that:
  - a. permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
    - i. DPF;
    - ii. EGR;
    - iii. Catalyst;
    - iv. OBD;
    - v. SCR; or
    - vi. any sensors, signals, or records related to these systems.
  - b. Can be programmed to modify engine or OBD parameters, including, but not limited to, the ECM.
  - c. Together with the addition, modification, or removal of a motor vehicle's parts, has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part.

If not manufactured by KT Performance, LLC, please provide the location(s) where the components were manufactured.

5. For each component identified in Request 4 above, provide the following information in an electronic, unlocked spreadsheet:
  - a. The component part number and identifying name, and the component part number and identifying name from the manufacturer or supplier;
  - b. The vehicle applications by make, model, engine types, and year;
  - c. A description of what the component does and how it operates; and
  - d. The quantity that was manufactured, purchased, or imported by you.
6. For each component identified in Request 4, identify in an electronic, unlocked spreadsheet format:
  - a. The engine parameters (*e.g.*, fuel delivery rate, timing of mixture, or the combustion process or other engine parameters) affected or changed in any way by such component.
  - b. The engine elements of design that are affected or changed in any way by such component.
  - c. Whether and how this component permanently or temporarily: changes, affects, bypasses, turns on, turns off, renders inoperative, facilitates the removal of, modifies, or simulates the operation of a vehicle's:
    - i. DPF system;
    - ii. EGR system;
    - iii. SCR system;
    - iv. OBD system;
    - v. sensors or signals of any kind related to the vehicle's emission control systems or elements of design; and
    - vi. emission related parts of any kind as compared to its function as originally designed by the original vehicle manufacturer to assure continued vehicle emission compliance.

### **Sale of Components**

7. For each component identified in Request 4, identify:
  - a. The name, address, and phone number of the purchaser as well as any invoice, and all other commercial information for the sale by you to a purchaser;
  - b. The quantity that was installed, sold, or offered for sale by you organized by purchaser; and
  - c. By name all websites, magazines, trade publications, and any other media in which KT Performance, LLC advertised the component at any time since January 1,

2013. Provide copies of these advertisements.

8. Identify the name, address, contact person, and phone number of each wholesaler, distributor, and authorized dealer for which KT Performance, LLC sold components identified in Request 4. For each entity identified, also identify the brand name under which each component is or has been marketed and a detailed, written description of the business relationship.
9. Identify the name, address, contact person, and phone number of each supplier for KT Performance, LLC components of the custom tunes that, based on any information or belief, do:
  - i. EGR removal, bypass, and/or deletes;
  - ii. DPF removal, bypass, and/or deletes ;
  - iii. Catalyst removal, bypass, and/or deletes;
  - iv. SCR removal, bypass, and/or deletes.

#### **Testing/Approvals of Components**

10. For components that are identified in response to Request 4, state whether you or an Affiliated Organization submitted an application for an Executive Order to the California Air Resources Board and provide a copy of the application for each component. State whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required you or the Affiliated Organization to change the component or application to receive approval.
11. For components that are identified in response to Request 4, state whether you or an Affiliated Organization submitted an application for aftermarket certification under EPA's Motor Vehicle Aftermarket Retrofit Device Evaluation Program and provide a copy of the application for each component. State whether each component received an after-market certification and state whether EPA required you to change the component or application to receive approval.



## **Appendix D**

### **Confidential Business Information**

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are allegedly to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of that harm, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Request for Information if you have claimed any information as business confidential. See 40 C.F.R.

§ 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Tony Miller, Chemical Engineer, P.E.  
U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
1595 Wynkoop Street, Mail Code: 8MSU  
Denver, CO 80202

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.



**Appendix E**  
**Statement of Certification**

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by \_\_\_\_\_ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**CERTIFICATE OF MAILING**

I, Edward Kulschinsky, certify that I sent a Request for Information pursuant to Section 208 of the Clean Air Act by Certified Mail, Return Receipt requested, to:

KT Performance, LLC  
1502 Max Hooks Road, Suite D  
Groveland, FL 34736

Diamond T Enterprises, LLC  
12055 Bay Lake Road  
Groveland, FL 34736

Registered Agent for KT Performance,  
LLC: Kenneth W Thompson  
12055 Bay Lake Road  
Groveland, FL 34736

On the 19th day of November, 2015.



Edward Kulschinsky, Attorney-Adviser  
U.S. Environmental Protection Agency

Certified Mail Receipt Number: 7008 3230 0000 9477 2976

7008 3230 0000 9477 2983

7008 3230 0000 9477 2990